

OGC HAS REVIEWED.

7 May 1947

*File:  
Personnel  
General*

## MEMORANDUM FOR CHIEF, PERSONNEL DIVISION

Subject: [REDACTED] STATINTL

1. We refer to your memorandum of 30 April 1947 concerning a periodic pay increase for [REDACTED] and the accompanying personnel folder, which we have reviewed in the light of the Comptroller General's decisions. To make clear our findings, we have listed chronologically the changes in pay for [REDACTED] STATINTL

STATINTL

<u>DATE:</u>	<u>FROM:</u>	<u>TO:</u>	<u>NATURE:</u>
9 July '42	P-3, 3200	P-4, 3800	Promotion
23 Nov. '44	P-4, Consultant	P-4, Analyst	No pay change
1 April '45	P-4, 3800	P-4, 4000	Periodic pay increase
1 July '45	P-4, 4000	P-4, 4520	Pay Act '45
10 Oct. '45	P-4, 4520	P-3, 4080	Reclassification
10 Feb. '46	P-3, 4080	P-4, 4300	Promotion to lowest in grade
1 July '46	P-4, 4300	P-4, 4902	Pay Act '46
3 Nov. '46	P-4, 4902	P-4, 4902	Transfer to CIG

STATINTL

STATINTL

2. The first question considered is the salary established for [REDACTED] on 10 February 1946, when she was restored to grade P-4 in the same position with the same duties after having been administratively reduced to P-3 some months earlier. It is clear from the Comptroller's decisions [B-61181 and others cited therein] that since she had received a periodic pay increase as a P-4 prior to reduction, on restoration to that grade after reduction it was within the administrative discretion of the department to give [REDACTED] the benefit of one periodic pay increase at the time of restoration. In other words, on 10 February she could have been restored to the grade of P-4 at the rate of \$4520, which would have been increased by the Pay Act of 1946

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to \$5280 [21 Comptroller General 791, page 796]. The right to a period pay increase vests only when the employee remains in the position [Ibid. page 795].

2. In answer to question contained in paragraph 1(b) of your memo of 30 April, the proper salary on 10 February 1946 was \$4300 since that was the administrative determination of the department. Questions (c) and (d) can be answered together in the negative. Almost identical facts are stated in a question put to the Comptroller General in 24 C.G. 226. A P-3 was reduced to a P-2 and then restored to a P-3 at the minimum grade, although in his prior tenancy of that grade he had had two periodic pay increases. The Secretary of Agriculture inquired whether, once having processed the restoration at the minimum grade, he could now grant a periodic pay increase without awaiting the statutory time and whether he could make the action retroactive. The Comptroller, reaffirming the authority to grant the increase at the time of restoration, stated that "\* \* \* the rule here announced may not be given retroactive effect to cases heretofore finally processed." [page 229] We are of the opinion that this clearly indicates that not only can CIG not correct her salary, but that the War Department could not have taken action had she remained there.

3. We believe, therefore, that [redacted] is bound STATINTL by the administrative determination made at the time of restoration to P-4 on 10 February 1946, and must comply with the statutory requirements, including the 18-month waiting period before she can be again granted the first periodic pay increase in that grade. We further believe that the opinions cited cover every aspect of the instant case, and leave no new question to be presented to the Comptroller General for further ruling.

4. The Personnel files are returned herewith.

LAWRENCE R. HOUSTON  
General Counsel

Enclosures